

proceeding, the interexchange carriers have pressed for lower access charges and appear to contend that basic service revenues are not significantly less than long-run incremental costs and, therefore, require only a modest contribution from other services. The merits of further access charge reductions will be considered as part of and in connection with the development of a rate affordability fund for basic rates in high cost areas.

All of these funding issues need further development and input from the parties and will be examined in the next phase of this proceeding.<sup>1/</sup> The parties should develop the mechanics of a Targeted Accessibility Fund to finance socially beneficial programs, including Lifeline, emergency services (e.g., "911"), and the Telecommunications Relay Service, as discussed above. Consideration must also be given to appropriate funding vehicles for federally mandated discounts for schools, libraries and perhaps certain health care providers. The scope and mechanics of a fund to ensure generally affordable basic rates warrant further consideration by the parties consistent with the parameters discussed above. We will initiate a further phase of this proceeding to allow parties to address these issues and to recommend specific mechanics for any funds proposed. Any funding mechanisms proposed must be competitively neutral, easily administered

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(...continued)

the non-traffic sensitive costs included in carrier access charges. Case 28710, Bypass of Local Exchange or Toll Networks, Opinion No. 85-15 (issued October 3, 1985).

<sup>1/</sup> We are mindful that our efforts to preserve and advance universal service must not burden Federal universal service support mechanisms.

and auditable, so as to be accountable to the Commission and the public.

LEVEL PLAY

We have concluded that competition is in the public interest.<sup>1/</sup> Technology is available (including cable television and wireless facilities) that may allow competition for local telephone services, but the existing market is highly concentrated and largely a monopoly.

Our objective is to remove barriers to competitive entry into the local markets and to establish a "level playing field" for competing providers of local exchange service. To achieve that objective we developed a set of foundation principles:<sup>2/</sup>

1. Customers must be able to call all valid telephone numbers.
2. Telephone numbers are a common resource to be shared among carriers.

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<sup>1/</sup> Case 29469, Opinion 89-12, Opinion and Order Concerning Regulatory Response to Competition (issued May 16, 1989). This finding is entirely consistent with the Telecommunications Act of 1996.

<sup>2/</sup> By Orders in this proceeding dated March 8, 1995 (Order Requiring Interim Number Portability Directing a Study of the Feasibility of a Trial of True Number Portability and Directing Further Collaboration) and September 27, 1995 (Order Instituting Framework for Directory Listings, Carrier Interconnection, and Inter-carrier Compensation), we have endorsed the main body of these principles and most of the matters detailed here. While no further action is required on such matters, the findings related to these issues are repeated here to provide additional context and a complete summary of the decisions to date.

3. Control of telephone numbers must shift from the incumbent carriers.
4. Customers and competitors must have access to the telephone numbers and directory listings of all other carriers.
5. Interconnection into networks of telephone corporations shall be provided for other public or private networks.
6. Segregable services and functions requested by users shall be provided to the extent technically and economically practicable.
7. A carrier's bottleneck facilities should serve the public interest.
8. Traffic and related data (e.g., billing and routing information) must be exchanged between local exchange carriers.
9. Local exchange carriers are entitled to compensation for the costs of the services provided to each other.
10. Compensation charges and rates should be cost-based, uniform, and encourage long-term efficiency.
11. Policies, prices, and practices should be competitively neutral, and promote competitive equity.

#### Transitional Regulation

The monopoly history of local exchange markets, combined with the present market power of the incumbents, may at times require different treatment of "incumbents" and "new entrants" to achieve a fair playing field for successful competition. Incumbent providers are identified as the 40 traditional wireline telephone companies providing basic residential telephone services as of the date this proceeding

was instituted (February 10, 1994), and new entrants are all other local carriers. Our principal findings are:

- Carriers under similar circumstances -- as determined by market power, control of bottleneck facilities or services, and the public interest -- should be regulated in a similar manner.
- Differential treatment should be limited to instances where market power derives from the monopoly history of local exchange markets.

We believe transitional regulatory approaches must be flexible enough to adapt to changing conditions and limited in duration depending on the conditions in the market. Specifically, we will establish a transition period for all decisions in this Competition II proceeding that could result in differential treatment of carriers.<sup>1/</sup> It is our expectation that the transition period will extend no later than December 31, 2000, and by no later than July 1, 2000, we will seek comments on the need to extend differential treatment or transitional proposals beyond December 31, 2000. Parties may petition at any point for changes to these transition actions and must provide a showing of a demonstrable change in the state of competition for local exchange services.

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<sup>1/</sup> Except to the extent required by state or federal law.

Number Portability,<sup>2/</sup> Directory Services,<sup>3/</sup>  
and Directory Assistance

Number portability, defined as the ability to change service provider without a number change, is essential to a viable competitive market. Based upon this finding, we established a trial to examine the viability of service provider portability in a multi-carrier environment. The trial began on February 1, 1996. In the interim, we implemented a transitional approach similar to that established under the Rochester Open Market Plan<sup>3/</sup> and modified to include reciprocal portability among all carriers.

Competitive access to directory information is also critical to the establishment of a competitive local market. We have issued orders requiring incumbent local exchange carriers to provide comprehensive directory information, including directory and directory assistance listings for all subscribers to new entrants, during the transition to competition. It is the responsibility of each service provider to ensure that its subscribers receive a White Page directory. New entrants will be required to provide essential consumer information, such as service repair numbers, billing

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<sup>1/</sup> These matters are resolved and are the subject of a prior order in this proceeding (Order Requiring Interim Number Portability Directing a Study of the Feasibility of a Trial of True Number Portability and Directing Further Collaboration (issued March 8, 1995)).

<sup>2/</sup> These matters are now resolved and are the subject of an order previously issued in this proceeding (Order Instituting Framework for Directory Listings, Carrier Interconnection and Intercarrier Compensation (issued September 27, 1995)).

<sup>3/</sup> Cases 93-C-0103, et al, Rochester Telephone Corporation - Restructuring and Multi-Year Rate Stability, Opinion No. 94-25 (issued November 10, 1994).

information numbers, and trouble shooting information, to their subscribers in a format they believe best for their customers.

Directory Assistance service, the provision of directory information over the telephone, is also essential to the provision of local telephone services. During the transition, incumbents should continue to provide directory assistance services to their customers as well as to new entrants or their customers. The rates for these services should be cost-based and negotiated between the local carriers. Arrangements regarding the sale or sharing of directory listings, directory assistance, and associated database information must adhere to the Commission's rules on privacy.

The public involvement process that complemented collaborative work with the parties disclosed difficulties experienced by non-regulated, competitive directory providers unaffiliated with the telephone industry. The potential benefits of competitive directory assistance services provision by third-parties were also considered. These benefits and the difficulties identified by such third-party directory providers merit further consideration. Therefore, we will shortly institute a further phase of this proceeding to explore the benefits of the sale of directory listings, directory assistance services, and associated database access to third parties by all local exchange carriers. This proceeding will consider the benefits and potential terms, conditions, and pricing of providing directory information to third-parties that might be appropriate during the transition to competition.

Cooperative Practices

While competition for the customer should be vigorous, the competitive carriers must still act cooperatively as joint service providers to assure that calls are completed and that customers receive accurate bills. Generally, the industry recognizes this need and has taken initial steps in the direction of improving cooperation between carriers in competitive circumstances, but to date limited progress has resulted, and we have received complaints concerning the lack of intercarrier cooperation.<sup>1/</sup>

We believe this area is critical to the success of a competitive market structure and to ensure customers receive good service and accurate bills. Thus, we support the initial steps taken by the industry and to accelerate that process will direct all local carriers, incumbents and entrants, that have been requested by another competing carrier to interconnect and deal reciprocally, to file reports that describe the specific steps they have taken to facilitate meaningful cooperation and to develop common forums to resolve mutual concerns.<sup>2/</sup> The reports should detail actions taken to support mutual billing, billing data exchanges, other areas of joint cooperation, and the problems or successes resulting from those actions. These reports should be filed six months from the issuance of this order. Other parties will then be allowed 30 days to comment on the industry's submission. In this way, the industry will have the opportunity and incentive

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<sup>1/</sup> For example, complaints have been received from AT&T Communications of New York, Inc. and Teleport Communications.

<sup>2/</sup> This approach is fully consistent with the process required under the Telecommunication Act of 1996.

to resolve such issues directly, while providing us the opportunity for further action should it fail to do so.

### Interconnection

Interconnection continues to be the linchpin of competition. The record in this proceeding underscored that New York remains a widely recognized leader in this area. Our Open Network Architecture rules and policies are generic and apply to all telephone companies, both incumbents and entrants, under our jurisdiction. After careful review, we conclude that our current Open Network Architecture rules and guidelines should continue without modification. Staff should monitor their implementation carefully, and we must be prepared to "referee" disputes in this area.

A special interconnection issue involves access to telephone poles and rights-of-way. We have accelerated discussion of the pole attachment issues and established a new proceeding to address these matters.<sup>1/</sup> In addition, telephone companies are expected to re-engineer their processes for provisioning, preparing, and maintaining collocation space in incumbent central offices to assure the terms are reasonable and costs are as low as possible.

### Intercarrier Compensation<sup>2/</sup>

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<sup>1/</sup> Case 95-C-0341, In the Matter of Certain Pole Attachment Issues which arose in Case 94-C-0095, Order Instituting Proceeding (issued March 10, 1995).

<sup>2/</sup> These matters are resolved and are the subject of an order previously issued in this proceeding. Order Instituting Framework for Directory Listings, Carrier Interconnection and Intercarrier Compensation (issued September 27, 1995).



Issues related to the rates charged for the exchange of local calls and related data between competitive, cooperative local carriers are referred to as matters of intercarrier compensation. This area was considered integral to a competitive market as well as to the New York Telephone incentive regulatory proceeding. We have already acted on many of the critical intercarrier compensation issues in prior orders in this proceeding.

We directed eligible local exchange carriers to provide incremental cost-based,<sup>1/</sup> meet point tariffs for the termination of local traffic between facilities-based, full-service local exchange carriers. Tariffs are to provide for both minute-of-use or flat rate charging options, unless an incumbent carrier can show that the costs of implementing a minute-of-use charging structure make that option administratively infeasible. Rates may be equal for traffic exchanged at the meet point, if appropriate interconnections are provided and the network access provided to each carrier is functionally equivalent. Carriers are free to negotiate mutually acceptable and non-discriminatory terms that vary from this baseline; such options must be tariffed.<sup>2/</sup>

Facilities-Based, Full-Service Carriers

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<sup>1/</sup> Incremental cost is determined by looking to the costs of the largest carrier serving a given LATA.

<sup>2/</sup> Case 94-C-0095, Order Clarifying March 8, 1995 Number Portability Order, pp. 11-12.

In prior rulings,<sup>1/</sup> we sought to encourage local exchange carriers to provide the full range of residence, business, and Lifeline services, and to do so through their own facilities. Facilities-based, full-service carriers both bear the costs and risks of providing essential network facilities and discharge their public interest obligation by providing basic services directly to customers. We reasoned that traffic exchanged between such carriers should be priced at its incremental cost.

Carriers engaged in the provision of basic residential, Lifeline, and business services will be regarded as "full-service" local exchange carriers. Such carriers provide basic services in accordance with the public interest, thereby directly discharging their universal service responsibilities. A carrier will be identified as full-service upon review of its plans and with the filing and effectiveness<sup>2/</sup> of its tariffs offering such local services. Routine, ongoing monitoring of full-service, new entrant carriers is appropriate initially as these carriers develop approaches to serve these markets. We direct staff to undertake such monitoring and report its findings in conjunction with its annual Transition Monitoring Plan report. Upon complaint or our own motion, we may, at any point, engage in a focused analysis of any full-service carrier's offerings to assure its provision of basic services is consistent with

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<sup>1/</sup> Order Instituting Framework for Directory Listings, Carrier Interconnection and Inter-carrier Compensation (issued September 27, 1995).

<sup>2/</sup> A full service carrier must also offer residential customers a *bona fide* offering in terms of its rates, terms, conditions, and availability. It need not, however, replicate the incumbent's territory, service offerings, or customer mix.

the public interest.<sup>1/</sup> This approach will be transitional and will be reviewed after five years.

We previously ruled that a local exchange carrier has a right to intercarrier compensation. Eligibility is to be determined by a demonstration that the carrier is authorized to provide local exchange service in the state; has been allocated an NXX<sup>2/</sup> for that purpose; and is providing local dial tone to customers. We believe these criteria also satisfactorily distinguish "facilities-based" providers from other carriers. We emphasize that this could mean, but does not necessarily require, that such carriers operate stand-alone networks capable of providing switched, intra-network services to their customers. It is likely that such carriers will, based on current technology, have their own switching plant and that they will provide facilities that connect individual customers to that switch that are functionally similar to the exchange access loops used today. These facilities may be directly provisioned, wholly or jointly owned, or leased through tariffed or non-tariffed arrangements.<sup>3/</sup> Thus, this does not necessarily exclude carriers that utilize facilities provided by other carriers,

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<sup>1/</sup> In making these analyses we must consider not only the carrier's own performance, but also market conditions over which the individual carrier has no control.

<sup>2/</sup> The carrier need not have been allocated a full code, as an eligible carrier might control less than that through code sharing or other means.

<sup>3/</sup> Where intraLATA calls are originated by a full-service, facilities-based local exchange carriers' customer and carried by the originating carrier or an affiliate of the originating carrier, terminating access charges shall be based on incremental costs.

although the conditions associated with such resale could impact that determination.<sup>1/</sup>

Neither facilities-based carriage nor full-service carriage status need be an absolute for a company. Facilities-based local exchange carriers may utilize platforms such as "service resale" to augment or extend their services to new markets by rebranding and reselling another carrier's retail services. In such cases, a carrier may be eligible for compensation for the traffic carried on its facilities, while for the traffic carried on a service resale basis it may not.<sup>2/</sup> Similarly, full-service carriers may be "full-service" in one portion of their operating territory while not in another.<sup>3/</sup>

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<sup>1/</sup> Factors to be considered would include whether "services" or "facilities" are being resold; Commission mandated rate designs that affect the rates or terms at which resold facilities are offered to competitors; whether or not the resold facilities form an integral part of the carrier's network; or whether the underlying wholesale carrier is already compensated for the traffic (as is currently the basis for service rebranding and resale). For example, a carrier that leases another carrier's "links" at cost-based rates and integrates them into its own local network will be considered to be "facilities-based," while a carrier that merely markets local service packages provided entirely by an underlying "wholesale" carrier on a rebranding basis will not.

<sup>2/</sup> For example, a carrier might be facilities-based in Buffalo, but provide service only through rebranding in Rochester. All other things equal, it would be eligible for compensation on the former and not the latter.

<sup>3/</sup> Case 94-C-0095, Order Instituting Framework for Directory Listings, Carrier Interconnection and Inter-carrier Compensation (issued September 27, 1995) Appendix A.

The industry has employed resale and joint-ownership arrangements in the past and compensation issues have been resolved without significant controversy as a matter of practice. These guidelines should be utilized by the industry to resolve such matters in the future, and disputes may be brought to the staff or the Commission, if necessary, for resolution.

#### Access to Databases and Information Providers

Prior actions have concentrated on the rates for the exchange of calls; however, it is equally important to establish rates for data exchanges commonly associated with local telephone service (emergency calls, intercepts, call identification, routing, and associated signaling). Access to such information must be facilitated. Therefore, we expect local exchange carriers to treat the control, design, operation, and administration of computerized data bases essential to the provision of local exchange services in a competitively neutral manner by all local exchange carriers. Such carriers should establish practices and terms to ensure safeguards and controls over the operation of these data bases and equal and non-discriminatory access by other local exchange competitors. Compensation for access to Service Control Point (or SCP) databases, such as the Line Information Database, Signaling System 7, "800," and intercept databases, should be cost-based. While per query (or data dip) charges appear reasonable in principle, the actual rate design is a matter that the local exchange carriers should address. Local exchange carriers should provide non-discriminatory access to their bottleneck Service Control Point databases, including Signaling System 7 and intercept databases, and any newly

created Service Control Point databases should be offered under the same compensation and non-discriminatory terms.

With regard to access to information services (such as "976" numbers) provided by third-parties and billed by a local exchange carrier, our foundation principle requires customers to be able to access all valid telephone numbers.<sup>1/</sup> Thus, calls to information services must be completed, and the originating carrier should charge the information service provider's carrier for the originating network charges as for any local call. Local exchange carriers are encouraged to develop cooperative billing practices to ensure customers are appropriately charged for the information services they utilize but, in any event, local carriers may not block access to such calls without the customer's assent.

#### Imputation

We previously determined that fair competition requires local exchange carriers "to impute to themselves the cost of access borne by toll competitors, to the extent that involves the use of monopoly services the competitors cannot avoid."<sup>2/</sup> Local competition will require continued attention to the relationship of wholesale intercarrier compensation charges with their retail counterparts to assure a fair and level field for interexchange and local exchange carriers in the markets where they compete. Thus, local exchange carriers

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<sup>1/</sup> This differs from our policy with respect to interexchange carriers, which have the choice to "bill or block" calls to information services. Case 93-C-0451 et al., Opinion No. 95-10 (issued August 2, 1995).

<sup>2/</sup> Case 28425, Opinion 92-13(A), Opinion and Order Granting In Part Petitions for Petitions for Rehearing or Clarification (issued September 4, 1992), p.37.

are directed to charge prices for intraLATA usage that meet appropriate imputation standards during the transition in accordance with our prior rulings. Our staff will monitor the implementation of the imputation guidelines closely given the potential for anti-competitive pricing if they are not applied.

#### Interexchange Traffic

The intercarrier compensation structure for local calling is discussed above ("Intercarrier Compensation"). Local exchange carriers are also authorized to file tariffs to charge for access by interexchange carriers which provide toll services to their local customers. In their tariffs, new entrant local exchange carriers have been authorized to charge for such access, subject to the constraint that their rates not exceed those of the largest carrier in the LATA without a showing that such rates are cost-based and in the public interest. This practice is reasonable and will continue, for now.<sup>1/</sup> We will initiate a further phase of this proceeding to consider the overall level of interexchange carrier access charges, in conjunction with our further examination of pooling arrangements, interexchange access charges in Case 28425 and universal service funding.

#### TRANSITION REGULATION

This proceeding also addressed our regulation of those firms entering the local exchange market and what changes, if any, need to be made in the regulatory framework

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<sup>1/</sup> Order Instituting Framework for Directory Listings, Carrier Interconnection and Intercarrier Compensation (issued September 27, 1995).

for existing local exchange providers. Four main topics were addressed: recovery of stranded costs, regulatory reporting requirements, price regulation, and other distinctions between dominant and non-dominant carriers.

Stranded Plant/Stranded Revenue Requirement

Stranded revenue requirement consists of stranded investment, underutilized investment, and revenues lost to competition. Stranded investment refers to utility plant that a company has prematurely retired from service due to competitive losses. Underutilized investment includes plant still in service, but for which utilization drops due to migration of customers to a competitor. To be considered for recovery, stranded or underutilized investment, at a minimum, must have been prudent at the time of installation, installed to meet regulated customer demand, and must have been in service. The appropriate context for consideration of stranded revenue issues would be in a general rate proceeding.

In an incentive regulatory environment, the risks and rewards of the business are fundamentally shifted from the utility's ratepayers to its shareholders. Competition along with inflation, productivity, or the general state of the economy, are all factors to be considered in developing an appropriate incentive regulatory plan. Companies that enter such plans accept the risks and rewards inherent therein. Companies that have not entered incentive regulatory plans should not expect a regulatory guarantee of full recovery of all stranded revenue requirements. The extent to which universal service funding will be made available to enable companies recovery of universal service obligations, will be



among the matters to be discussed in further phases of this proceeding.

Reporting Requirements

Dominance is defined by the degree of market power wielded by a given firm and does not necessarily relate to its status as one of the pre-existing wireline telephone companies (or incumbents). Thus, whether a company is an incumbent or new entrant to the field of local competition is not critical to the determination of the degree of reporting or the constraints placed upon its pricing. Rather, it is the degree of market power or dominance that determines the regulatory requirements.

After examining current reporting requirements (existing rules and regulations, reporting frequency, and the uniform system of accounts), we conclude such requirements should be maintained for dominant local exchange companies, except as they may be modified through periodic reviews.<sup>1/</sup> Because dominant carriers continue to be subject to some form of rate of return regulation they should continue to be subject to the uniform system of accounts (USOA). In order to avoid unnecessary regulatory burdens, non-dominant carriers may generally file financial data based on Generally Accepted Accounting Principles (GAAP). Only when a non-dominant seeks rates or compensation requiring a showing of cost, such as when proposing interexchange carrier access charges in excess of those of the largest local carrier in a LATA (see the Level Play section above), would it be required to submit cost data

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<sup>1/</sup> The Commission recently streamlined reporting requirements for telephone corporations. Case 95-M-0796, Order Revising Report Form and Requirements (issued February 2, 1996).

in accordance with an abbreviated USOA standard. Beyond this non-dominant companies need only be required to report information sufficient to ensure that overall service network quality will be maintained and the development of competition can be monitored.<sup>1/</sup>

### Pricing

The freedom to change rates rapidly to best reflect demand and costs is consistent with a competitive market. As the transition to competition continues, pricing flexibility must be accorded companies in competitive circumstances. Pricing flexibility, defined as the ability to change rates rapidly with the minimum of regulatory review, should be commensurate with the degree of competition.

After careful review, we find that our existing pricing flexibility policies (a ceiling of no more than a 25% increase per annum, and a floor of relevant incremental costs) and individual case basis pricing (rates based on costs to an individual customer) are appropriate for dominant providers

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<sup>1/</sup> The reporting requirements for service quality, infrastructure and competition monitoring are discussed infra.

for competitive services during the transition period.<sup>2/</sup> Thus, our existing pricing flexibility policies will be maintained.

Competitive services provided by dominant companies may continue to be priced flexibly, and the non-discriminatory offering of individual contract pricing to better reflect specific customers' needs and conditions, will be allowed to continue for competitive services. Direct price regulation, such as price caps, or residual rate of return regulation, may be used in pricing bottleneck services. Non-dominant companies should have pricing flexibility for most services, with the exception of those required by the public interest to protect consumers (e.g., operator surcharges), or to maintain affordable, basic rates (see the Universal Service section above).

#### Other Local Exchange Carrier Requirements

All local service providers will be required to define their service territories, provide access to emergency services, and comply with our consumer protection rules. New entrants, however, will not be required to provide any particular services, though the choice to provide basic

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<sup>1/</sup> The Commission allows the tariff to define a range between relevant incremental costs and the 25% per annum cap as presumptively reasonable rates, rather than stating any rates whatsoever. The company's currently effective rate is disclosed in a separate administrative schedule and may be changed within the range on as little as one day's notice. Dominant carriers have been granted such rate flexibility for many services (e.g., business access lines). Although their rates are presumed to be reasonable upon filing, changes in the rates of bottleneck services must also be accompanied by appropriate cost support. (See Case 29469, Order Approving Compliance Filing (issued January 29, 1990) p. 46; and Opinion and Order Concerning Regulatory Response to Competition, Opinion 89-12 (issued May 16, 1989) p. 28.

services and Lifeline may affect a carrier's ability to receive funding assistance and the terms of its intercarrier compensation.

Our order instituting this proceeding identified "interim" requirements applicable to all local exchange carriers.<sup>1/</sup> These requirements encompass consumer and public interest protections and make clear the characteristics that further distinguish local exchange carriers from other telephone corporations:

- a) A local exchange carrier must file tariffs to provide local exchange service (a subscriber's initial access to the "public switched network") within a geographic area or areas defined by the carrier and filed with the Commission.
- b) As a provider of local exchange service, a local exchange carrier must:
  - i) provide, without undue discrimination or preference, service to any willing customer within the carrier's defined service territory;
  - ii) provide access to public safety/emergency telephone services (911, E-911, O-), support the statewide relay system, and offer, or otherwise support, Lifeline service;
  - iii) comply with the Telephone Fair Practices rules (16 NYCRR Part 633, et. seq.);

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<sup>1/</sup> Case 94-C-0095, Order Instituting Proceeding (issued February 10, 1994).

- iv) comply with the Common Carrier rules (16 NYCRR Part 605);
  - v) comply with our Statement of Policy on Privacy in Telecommunications (Case 90-C-0075, issued March 22, 1991);
  - vi) comply with our Open Network Architecture (ONA) principles (Case 88-C-004, Opinion No. 89-28, issued September 11, 1989);
  - vii) provide reasonable interconnections for the joint provision of service to any certified carrier requesting such interconnection;
  - viii) comply with our service quality standards and infrastructure monitoring requirements (16 NYCRR, Parts 603 and 644.3).
- c) All providers of local exchange service will be entitled to:
- i) comparable access to number resources;
  - ii) comparable access to and inclusion in the local exchange routing guide;
  - iii) reasonable access to customer information of other carriers necessary for billing and for the provision of directory listing and assistance services;
  - iv) participation in intercarrier compensation agreements.

We have determined that, at this early stage of the transition, the "interim" requirements continue to provide necessary consumer protections without imposing undue burdens on existing or potential market participants. Therefore, they shall continue to apply to all local exchange carriers. With

the exception of the service quality and reporting requirements discussed elsewhere, we do not propose modification or general waiver of our rules for any group of carriers. As always, carriers may request waiver of specific rules, and we will be inclined to grant such waivers when accompanied by showings that the protections afforded by the rule will be provided in some other manner by the petitioner or are being provided effectively by the competitive market. In addition, if a carrier can establish with particularity that a specific requirement is, in fact, a barrier to entry we will grant specific waivers.

#### SERVICE QUALITY AND MONITORING

High service quality is essential to ensure New York's leadership in telecommunications. It must be maintained during the transition to competitive local exchange markets. Part of this proceeding addressed the service quality standards and the service quality, infrastructure, and competition monitoring required during the transition to local exchange competition.

#### Service Quality Regulation

Our approach regarding service quality balances our primary goal of ensuring quality service with a desire to minimize regulatory costs and apply standards uniformly to similarly situated companies. In basing service quality reporting on company size and performance, we have substantially limited the scope of reporting for new entrants and small incumbents alike.

All local exchange carriers will be subject to the

same general administrative, operational, and performance standards to ensure consumer access to a reliable, seamless network-of-networks. However, performance measurement and reporting requirements will vary depending on company size and performance history. In other words, carriers will be expected to provide service consistent with the performance standards even if they are required to report on only one or a few of the standards. If these limited measurements reveal problems, expanded reporting may be required. Where a local exchange carrier provides its services solely by repackaging and rebranding services provided by another carrier, and the underlying carrier's services are already subject to service quality monitoring, the former companies may be granted exemptions from particular service standards, measurement, and reporting requirements on a case-by-case basis. These carriers will be required to show that the service in question is provided solely through resale of an underlying carrier's tariffed services over which it lacks direct control. The granting or denial of such exemptions will be delegated to the Director of the Communications Division and such exemptions will be regularly reviewed.

Local exchange carriers will be expected to provide the same fundamental consumer protections, incorporate the same basic capabilities and safeguards into their operations and networks, and be judged in relation to the same performance thresholds (e.g., "Weakspot," "Surveillance Level Failure," and "Objective" level thresholds). This assures all local exchange carriers will be held to the same minimum performance standards.

To provide adequate information about each local exchange carrier's service quality, while minimizing

regulatory burdens, local exchange carriers will first be classified by size as follows:

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|-----------------------|----------------------------------|
| Small companies       | - 50,000 access lines or less    |
| Medium-size companies | - 50,001 to 500,000 access lines |
| Large companies       | - Over 500,000 access lines      |

A small company will normally only report Customer Trouble Report Rate (CTRR) performance, as long as its complaint rate (as measured by complaints filed with the Commission or "PSC complaints") does not exceed 0.5 per thousand access lines per year on a twelve month rolling average basis. It will also be subject to Surveillance Level Failure and Service Inquiry reporting requirements, but only for CTRR. If a service problem is detected after analysis of CTRR or complaint activity, the Director of the Communications Division will be authorized to require additional reporting until the problem is resolved.

A medium-size company will normally report CTRR, % Missed Repair Appointments, and % Out-of-Service Over 24 Hours, as long as its complaint rate does not exceed 0.5 per thousand access lines per year on a twelve month rolling average basis. It will also be subject to Surveillance Level Failure and Service Inquiry reporting requirements, but only for these three measures of service quality. It may also be required by the Director of the Communications Division to report additional information if a service problem is detected, but the additional reporting should be eliminated once the problem is resolved. Conversely, the company may



request the Director to waive some of the reporting requirements upon earning a PSC commendation for excellent service.

A large company will normally report all of the performance indicators specified in the service quality standards and be subject to Surveillance Level Failure and Service Inquiry reporting requirements for all items. A large company will also be subject to additional reporting in the event of a service problem (as they are currently) and may request the Director to waive some of the routine reporting requirements upon earning a PSC commendation.

Under this plan, thirty-five incumbents all small companies, three incumbents (ALLTEL, Highland, and Citizens Telecom) are medium-size companies, and two incumbents (Rochester Telephone and New York Telephone) are large companies. Thus, existing service quality measurement and reporting requirements will be reduced for most of the incumbents. Since most new entrants will probably begin as small companies, this plan will impose minimal reporting requirements, as long as they maintain low complaint rates.

Annual PSC Commendations will continue to be awarded to local exchange companies judged to have provided excellent service. New entrants will now become eligible for such commendations. Currently, the qualifying criteria for a commendation are: (1) 95% Objective level performance for Customer Trouble Report Rate; (2) no Surveillance Level Failure in any measurement category; and (3) a complaint rate of not more than 1.0 per thousand access lines for the year.